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*Attorneys for Irving H. Picard, Trustee
for the Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities LLC
and the estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff Investment
Securities LLC,

Plaintiff,

v.

FALCON PRIVATE BANK LTD. (f/k/a AIG
Privat Bank AG),

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 11-02923 (CGM)

**DECLARATION OF MATTHEW K. COWHERD IN SUPPORT OF THE TRUSTEE'S
OPPOSITION TO DEFENDANT'S MOTION TO DISMISS**

I, Matthew K. Cowherd, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a member of the New York Bar and an Associate at Baker & Hostetler LLP, counsel for plaintiff Irving H. Picard, as trustee (the “Trustee”) for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the chapter 7 estate of Bernard L. Madoff.

2. I submit this declaration in support of the Trustee’s Memorandum of Law in Opposition to the Motion to Dismiss (the “Motion”) of defendant Falcon Private Bank LTD. (f/k/a AIG Privat Bank AG) (“Falcon”).

3. Although several documents attached to this Declaration are stamped confidential, the Trustee’s records indicate that the producing parties have de-designated the documents as not confidential under the Litigation Protective Order entered in this liquidation. *See SIPC v. BLMIS (In re BLMIS)*, Adv. Pro. No. 08-01789 (CGM) (Bankr. S.D.N.Y. June 6, 2011 & Sept. 17, 2003), ECF Nos. 4137 & 5474. In addition, all personal identifying information has been redacted.

4. The Annual Reports attached hereto are excerpted due to size and volume considerations and the Trustee is in possession of the full reports. These reports can be provided to the Court upon request.

5. Attached hereto as **Exhibit 1** is a true and correct copy of an excerpt from the American International Group, Inc. (“AIG”) 2007 Annual Report (PUBLIC0650720).

6. Attached hereto as **Exhibit 2** is a true and correct copy of a Business Wire news article dated April 16, 2009 (PUBLIC0651209).

7. Attached hereto as **Exhibit 3** is a true and correct copy of an excerpt from the AIG 2006 Annual Report (PUBLIC0693311).

8. Attached hereto as **Exhibit 4** is a true and correct copy of a November 2005 Institutional Investor article (ACCSAC00807113).

9. Attached as **Exhibit 5** in redacted form is a true and correct copy of a Fairfield Sentry Limited (“Sentry”) short-form subscription agreement executed by Falcon on March 14, 2000 (ANWAR-CFSE-00824194).

10. Attached as **Exhibit 6** in redacted form is a true and correct copy of a Sentry short-form subscription agreement executed by Falcon on May 2, 2000 (ANWAR-CFSE-00823643).

11. Attached as **Exhibit 7** in redacted form is a true and correct copy of a Sentry short-form subscription agreement executed by Falcon on May 9, 2000 (ANWAR-CFSE-00821125).

12. Attached hereto as **Exhibit 8** is a true and correct copy of a Sentry Subscription Agreement executed by Citco on behalf of Falcon, dated July 3, 2007, bearing Citco Client Reference No. 185009 (PUBLIC0681624).

13. Attached as **Exhibit 9** in redacted form are true and correct copies of Citco and Fairfield Greenwich Group (“FGG”) internal documents identifying Falcon’s Citco client reference number as 185009 (CFSSAA0000715, SECSEV1955526).

14. Attached as **Exhibit 10** in redacted form is a true and correct copy of Sentry’s Private Placement Memorandum, dated October 1, 2004 (ANWAR-C-ESI-00151076).

15. Attached as **Exhibit 11** is a true and correct copy of email correspondence between FGG personnel and AIG Global Investment Corp. (“AIG Global”) personnel, dated

March 21, 2002 (FG-05804646), attaching in redacted form a Sentry Information Memorandum as amended on July 1, 2000 (**Exhibit 12**) (FG-05804656) (other attachments omitted).

16. Attached as **Exhibit 13** is a true and correct copy of email correspondence between FGG personnel and Falcon, dated September 19, 2002, concerning Sentry and other FGG funds (FG-05958246).

17. Attached as **Exhibit 14** is a true and correct copy of email correspondence between FGG personnel and AIG Global personnel, dated March 11-19, 2003, concerning Sentry performance (FG-05804699).

18. Attached as **Exhibit 15** is a true and correct copy of email correspondence between FGG personnel and AIG Global personnel, dated June 5, 2003, concerning AIG Global site visit to FGG's New York offices (SECSEV0668489).

19. Attached as **Exhibit 16** is a true and correct copy of email correspondence between FGG personnel, dated September 9, 2003, concerning AIG Global site visit to FGG's New York offices (SECSEV0724060).

20. Attached as **Exhibit 17** is a true and correct copy of FGG notes, dated September 9, 2003, on meeting with AIG Global at FGG's New York offices, including notation that AIG Global selects investments for a Falcon fund portfolio (FG-05958655).

21. Attached as **Exhibit 18** is a true and correct copy of email correspondence between FGG personnel and AIG Global personnel, dated September 23, 2003 (SECSEV0673421), attaching Sentry's April 7, 2003 Due Diligence Questionnaire (**Exhibit 19**) (SECSEV0673423) (other attachment omitted).

22. Attached as **Exhibit 20** is a true and correct copy of email correspondence between FGG personnel, dated September 23, 2003, concerning sending to AIG Global weekly reports on Sentry (SECSEV1755592).

23. Attached hereto as **Exhibit 21** is a true and correct copy of a FGG Client Meeting Report Sheet, dated October 10, 2003, referencing the synergy between AIG New York and Zurich personnel and the marketing by Falcon of a fund of funds managed by AIG Global (SECSEV0675264).

24. Attached as **Exhibit 22** in redacted form is a true and correct copy of a Citco redemption confirmation form for Falcon's March 18, 2004 Sentry redemption, under Citco Client Reference No. 185009 (CFSSAD0003630).

25. Attached as **Exhibit 23** in redacted form are true and correct copies of a Citco order confirmation form (CFSSAM0000500) and Citco redemption confirmation form (CFSSAD0004200) for Falcon's July 19, 2007 Sentry redemption, under Citco Client Reference No. 185009.

26. Attached as **Exhibit 24** in redacted form are true and correct copies of Citco redemption confirmation forms for AIG Global's December 18, 2003 Sentry redemptions for AIG Select Hedge Ltd. (CFSSAD0001564).

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing statements are true and correct.

Dated: October 14, 2022
New York, NY

By: /s/ Matthew K. Cowherd